

**TOWN AND COUNTRY PLANNING ACT 1990
ACQUISITION OF LAND ACT 1981**

**LONDON BOROUGH OF SUTTON
(ELM GROVE) COMPULSORY PURCHASE ORDER 2024**

APP/PCU/CPOP/P5870/3344739

REGENERATION

PROOF OF EVIDENCE

OF

**ADAM TUCKER
ON BEHALF OF THE ACQUIRING AUTHORITY**

MARCH 2025

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1 INTRODUCTION

- 1.1 On 26 March 2024 the London Borough of Sutton ("**Council**") made the London Borough of Sutton (Elm Grove) Compulsory Purchase Order 2024 ("**Order**") pursuant to section 226(1)(a) of the Town and Country Planning Act 1990 and the Acquisition of Land Act 1981.
- 1.2 The site that is proposed for redevelopment and that is the subject of the Order has an area of approximately 0.89 hectares and is comprised of the Elm Grove Estate and 216-220 High Street ("**Order Land**").
- 1.3 The purpose of the Order is to facilitate the carrying out of development, re-development and improvement on or in relation to such land consisting of a regeneration scheme comprising the provision of residential units, associated amenity and open space, new pedestrian and vehicular access, landscaping and new infrastructure that will contribute to the promotion and improvement of the economic, social, and environmental wellbeing of the Council's area ("**Order Scheme**").
- 1.4 I have been appointed by the Council to provide evidence on the need for regeneration and the delivery of the Order Scheme in support of the confirmation of the Order. I have had overall strategic responsibility for the Council's regeneration schemes since June 2021, and have been involved in the Order Scheme since that date. I have an intimate knowledge of the challenges and opportunities of the Order Scheme and was instrumental in securing multi-million grant funding from the GLA to deliver the scheme, secure an outline planning approval and appoint a developer partner.

2 QUALIFICATIONS AND EXPERIENCE

- 2.1 I am the Head of Regeneration, Enabling and Development at the London Borough of Sutton. I have over 29 years' experience in development and regeneration having worked for HAs, Local Authorities and private consultancies. This breadth of perspective enables me to effectively lead consultant and internal teams. I am skilled in developing staff. Technically, I excel in contract, risk, due diligence and commercial management.
- 2.2 I have successfully led regeneration and development programmes of all sizes and tenure types, delivering Catalyst's (now part of Peabody) first regeneration scheme in 2001. I have led many regeneration schemes since then, with these schemes winning numerous industry awards. I am adept in facilitating workshops, engineering successful outcomes in difficult circumstances, reporting to and attending boards, navigating schemes and programmes through internal processes.
- 2.3 Prior to my current role I was Estate Regeneration and Development Lead at London Borough of Newham – I transformed the service and brought £multi-million savings and service improvements, and was responsible for a pipeline of circa 8000 homes across 3 major regeneration schemes.
- 2.4 At London Borough of Camden, I headed up 3 teams bringing private sector commercial acumen and rigour to deliver a programme in excess of 1000 homes. In particular I led and acted as an expert witness in the Bacton Estate CPO public inquiry.
- 2.5 I led the John Rowan and Partners (a multi-disciplinary construction consultancy) Affordable Housing team for 5 years until February 2010 and I was instrumental in its growth and success.
- 2.6 I develop places people love in London and the South East, understanding the requirements of all stakeholders including client companies, tenants, leaseholders and Local Authority members and officers.

3 SCOPE OF EVIDENCE

3.1 My evidence will address the following:

- 3.1.1 Council's aspirations for the Order Land and the need for regeneration;
- 3.1.2 The authorisation of the Order;
- 3.1.3 Summary of the Order Scheme;
- 3.1.4 Whether the purpose of the CPO be achieved by other means;
- 3.1.5 Impediments to delivery of the Scheme;
- 3.1.6 Development partnership;
- 3.1.7 Section 73 Scheme;
- 3.1.8 Justification for the use of CPO powers and for the Order;
- 3.1.9 Response to objections;
- 3.1.10 Conclusion: the compelling case in the public interest for confirming the CPO;
- 3.1.11 Declaration of truth.

4 COUNCIL'S ASPIRATIONS FOR THE ORDER LAND AND THE NEED FOR REGENERATION

- 4.1 The Council has made the Order to address concerns about the quality and longevity of the homes currently located within the Elm Grove Estate ("**Estate**") and wishes to maximise opportunities to provide new high quality housing, including affordable housing, in the Borough and to enhance place-making.
- 4.2 The Estate was built in the 1980s and consists of 73 dwellings made up of one, two and three bedroom homes in the form of flats, houses and bungalows. Along the southern and eastern perimeter of the Estate are three large blocks of three storeys, containing 45 x one bedroom flats and 12 x two bedroom flats. Along Elm Grove and in the central part of the Estate are short terraces of two storey housing which make up 14 x three bedroom houses and 2 x three bedroom bungalows.
- 4.3 A number of areas of the Estate within the Order Land are now in poor condition.
- 4.4 The existing public realm within the Order Land is of poor quality, with 46 hard standing car parking bays, small pockets of unusable grass verges which lack definition of use and designation. There are a small number of mature trees and there is little to no open green landscaping or planting.
- 4.5 Ongoing consultation with residents commenced in 2017 and has revealed that a large number of residents identified problems with the circulation spaces within the Estate, anti-social behaviour, crime, and a lack of safety within the Estate, as set out in the consultation reports (**CDD.1 – CDD.9**). A number of key design features within the Estate have been identified as contributing towards the concerns of residents including:
- 4.5.1 Poor design, lighting and layout of the estate contribute to the significant amount of anti-social behaviour, such as loitering in and around the estate, substance misuse and drug dealing;
 - 4.5.2 Shared entrance doors are frequently vandalised or broken;
 - 4.5.3 Alleyways leading to the high street are poorly lit and feel unsafe;
 - 4.5.4 Many households are overcrowded;
 - 4.5.5 Windows in the flats are small, reducing the amount of daylight in homes;

- 4.5.6 Homes are poorly insulated for sound and you can hear your neighbours and there is noise from traffic and bin lorries;
 - 4.5.7 There is a lack of usable outdoor space and flats don't have a balcony;
 - 4.5.8 There is a lack of places for children to play, or for the community to enjoy;
 - 4.5.9 Homes that are inefficient to heat, leading to a rise in cases of mould and damp;
 - 4.5.10 Fly tipping is a major problem, as are bin stores and waste management;
 - 4.5.11 There is a lack of privacy, with members of the public using the estate as a cut through;
 - 4.5.12 There is illegal car parking on the estate and residents' parking bays are frequently blocked by visitors to the town centre;
 - 4.5.13 Blocks have no lifts or step free access meaning homes are not very accessible for elderly residents, those with mobility issues or families with young children;
 - 4.5.14 No planting or fences in front of windows to give privacy to ground floor homes;
 - 4.5.15 Poor external lighting generally; and
 - 4.5.16 No secure cycle storage.
- 4.6 The Order Land is in a highly accessible location within Sutton Town Centre and provides an excellent opportunity to increase the Council's housing supply and transform the public realm as part of a high-quality redevelopment scheme. The regeneration of the Estate is an integral part of the Council's ambitions for transforming Sutton Town Centre.
- 4.7 The additional homes will support a growing community and contribute to the social and economic growth of the borough. Increased footfall will help to drive investment in the town centre, whilst additional income generated through rents and council tax will support local services. Improvements to the environment and public realm will help to reduce crimes and contribute to the health and wellbeing of local people, by creating safer surroundings and greater sense of place that will help Sutton to become a key destination for existing residents and visitors alike.

- 4.8 The Sutton Local Plan (2016-2031) (**CDC.3**) was adopted in 2018 and included a specific residential site allocation for the Order Land as described in sections 4.10 to 4.11 of Jane Barnett's proof of evidence.
- 4.9 The boundary of the Order Land includes the existing Estate and 216-220 High Street (ie Market House). The building, which backs on to Elm Grove, was acquired by the Council in 2019 to support plans to revitalise the town centre in conjunction with the regeneration of the Estate. There are 3 commercial interests associated with Market House, 216-220 High Street. These include The Sound Lounge, Volunteer Centre Sutton and Successful Sutton - Business Improvement District. This integration provides an opportunity to optimise the development, improve scheme viability and deliver more homes and place-making improvements that align with local and strategic priorities for the area.

5 THE AUTHORISATION OF THE ORDER

- 5.1 The desire for the regeneration of the Estate was first identified in the Sutton Town Centre Masterplan, adopted in 2016 (**CDC.6**). The Masterplan identified that the quality of the Estate could be improved, the layout of homes could be better integrated into the rest of the town centre, and there was an opportunity to present a new active frontage to Throwley Way (**CDC.6**, page 76). The Masterplan was reflected in the Site Allocation for the Estate in the Local Plan, as set out in the evidence of Jane Barnett.
- 5.2 The Council began consulting on the possible regeneration of the Estate in 2017. The Council held a series of resident/stakeholder consultation sessions on 22 and 24 June 2017 (**CDD.2**), 29 June 2017 (**CDD.3**) and 19 September 2017 (**CDD.4**). These sessions identified opportunities to improve the Estate.
- 5.3 The Council undertook detailed consultation with residents within the Estate on the potential regeneration of the Estate between November 2020 and February 2021. A series of 7 co-design workshops and 5 drop-in sessions with residents were held to consider 3 options for the future of the Estate: refurbishment, partial redevelopment and full redevelopment. Through this process, full redevelopment was established as the most suitable option to meet the needs of residents, the Council and the wider community. The consultation (including that carried out in 2017 and mentioned above) is summarised in the Future of Elm Grove: Residential Consultation & Engagement Summary Report dated 28 September 2021 (Appendix B to **CDB.1**, page 49).
- 5.4 The Council commissioned an Options Appraisal Report to inform decision making on the future of the Estate from Savills in May 2021 (Appendix C to **CDB.1**, page 123). The Report considered the three options: refurbishment, partial redevelopment, or full redevelopment. The Report concluded that full redevelopment of the whole Estate met the majority of resident and Council priorities, would bring the most benefits to existing residents and would provide the most housing.
- 5.5 The Council's Housing, Economy and Business Committee approved the full redevelopment of the Estate on 28 September 2021, subject to resident support and a viable and deliverable business case (**CDB.2**).
- 5.6 In late 2021 the Council undertook three further consultation workshops with residents to review the previous masterplans and the shared priorities, in order to redefine the design principles for a new Masterplan for the Estate. Two themed workshops were held for

residents to share their views on what's important to them in relation to their new homes, the new building and an improved estate environment.

- 5.7 The Committee subsequently approved a Landlord Offer on 7 December 2021 (**CDB.3** and **CDB.4**). The Landlord Offer set out the Council's commitments to residents and landowners in the Estate and the indicative proposals for the regeneration of the Estate. The Landlord Offer was included in a Residents' Ballot which ran from 7 February 2022 to 3 March 2022 in accordance with section 8 of the GLA Affordable Housing Capital Funding Guide (July 2018), and 78.6% of residents voted 'Yes' in support of the redevelopment of the Estate (**CDB.6**).
- 5.8 The Council prepared a Business Case and Delivery Strategy for the Order Scheme, which was approved by the Committee on 24 January 2023 (**CDB.7** and **CDB.8**). The Committee also approved the progressing of a planning application for the Order Scheme and noted that while the Council will seek to acquire land by agreement, the Strategy and Resources Committee would be asked to approve the making of the Order.
- 5.9 A further two themed workshops were held in June and October 2023 with Estate residents as part of the development of proposals for the public realm, parking, play and amenity areas. In addition to these, public drop-in exhibitions open anyone living and working in the wider area were held in October and December 2023 to allow all those either interested or affected by the proposed development to comment on the emerging proposals and make suggestions on both the design and the engagement process.
- 5.10 A summary of engagement with residents in accordance with Policy H8 of the London Plan (**CDC.7**) is attached as **Appendix 1**.
- 5.11 The Council owns the freehold title of the property at 216-220 High Street known as Market House. The premises were originally let to 3 commercial leaseholders who occupied the property, being The Sound Lounge, Volunteer Centre Sutton and Successful Sutton – Business Improvement District. Their interests are excluded from the Order. Five workshops were also held with these tenants of Market House between October 2023 and February 2024, to discuss specific proposals for the Market House building and the surrounding landscape areas. Workshops were held in Market House to allow tenants to more easily understand the potential changes and impacts on their current use of the building.
- 5.12 More recently, Successful Sutton has decided to downsize its accommodation and has relocated to alternative co-worker space at Oru Sutton in Sutton High Street, as they no longer needed the amount of space they were previously occupying. The Council continues

to consult with the Volunteer Centre and The Sound Lounge to develop the detailed plans for Market House, including further discussions on the reallocation of space, the reprovision of essential storage and options for improving access and movement within the building. The net effect of the Order on these occupiers is limited (and in fact, positive) in terms of once the Order Scheme proceeds the quality of the provision within Market House will be enhanced.

- 5.13 The Strategy and Resources Committee resolved to make the Order on 19 February 2024 (**CDB.11** and **CDB.12**). While the Council has continued negotiations with private landowners and Council tenants within the Land during this period and since, the Council proceeded to make the Order on 28 March 2024 (**CDA.1**) to mitigate the risk of the entire Order Scheme being delayed because of the failure to reach agreement with a small number of private owners.
- 5.14 The Council then undertook a comprehensive partner procurement exercise to select a private sector development partner with the right level of skill, resource, experience and expertise to deliver the Order Scheme. The Housing, Economy and Business Committee subsequently resolved to appoint Lovell as the Council's preferred bidder on 17 July 2024 (CDB.9 and CDB.10).
- 5.15 The Planning Committee approved the Planning Application on 4 September 2024 (CDB.14). Further details are provided in the evidence of Jane Barnett.

6 SUMMARY OF THE ORDER SCHEME

- 6.1 The Order Land is the subject of an outline planning application with reference DM2024/00392 (“**Planning Application**”) for:

Outline planning application (with all matters reserved) for development including demolition of existing buildings and structures within Elm Grove Estate and erection of new buildings to provide residential floorspace (Class C3); retention, refurbishment and rear extension of 216-220 High Street to provide town centre (Class E), community (Class F2), sui generis and residential floorspace (Class C3); new pedestrian and vehicular access; associated amenity space, open space, public realm and landscaping; car and cycle parking spaces; plant; refuse storage; servicing; other works incidental to the proposed (phased) development; and Phase 0 enabling preliminary works in the form of demolition of two existing bungalows on-site.

- 6.2 The Planning Committee considered and resolved to grant the Planning Application for the Order Scheme on 4 September 2024 (**CDB.13** and **CDB.14**), subject to the completion of a planning agreement and the imposition of planning conditions. Further details in relation to the Planning Application are provided in the evidence of Ms Barnett.

- 6.3 Overall the Order Scheme will make a significant contribution to the economic, social and environmental well-being of the area and deliver very significant benefits:

6.4 Social:

- 6.4.1 the provision of up to 282 high quality new one, two and three bedroom homes, including flats and maisonettes built to meet modern design, quality, energy and safety standards and significantly improve on the standard of the current residential provision within the Order Land;
- 6.4.2 private outdoor space for every home with new resident only courtyard gardens with safe play areas for children, inclusive of a net increase in terms of quality and quantity;
- 6.4.3 better designed and more secure resident only car parking with the opportunity for electric car charging points and secure resident only cycle, bin and recycling storerooms;
- 6.4.4 delivery of 50% Affordable Housing to include a range of tenure types and sizes (including the re-provision of existing Affordable Housing);

- 6.4.5 delivery of new homes to modern accessibility standards such that residents will be able to benefit from more appropriate and adaptable homes in terms of level access and wheelchair accessibility;
- 6.4.6 high proportion of smaller and larger family housing include two-bedroom four-person homes and three-bedroom five-person homes to meet identified local demand in a town centre location;
- 6.4.7 the design of the Order Scheme will adhere to Designing Out Crime principles that will address anti-social activity in the area;
- 6.4.8 re-provision of existing affordable homes with high quality replacement homes.

6.5 Environment:

- 6.5.1 the design will contribute to the Council's net-zero targets using a fabric first approach;
- 6.5.2 improved permeability and wayfinding through the careful placement and integration of marker buildings at key connection points along the Order Scheme's edges;
- 6.5.3 a new east-west multi-functional route through the Order Scheme site to provide pedestrian and cycle access, connecting Benhill Avenue, Throwley Way and the High Street, significantly improving connectivity;
- 6.5.4 the provision of new high quality safe play areas;
- 6.5.5 landscaped and well-lit new and improved public realm to include the two existing east-west routes which connect Elm Grove and the High Street;
- 6.5.6 increase in the ecological and urban greening of the Order Scheme site to deliver local biodiversity net gain; and
- 6.5.7 maximising the use of a sustainable town centre location.

- 6.6 In economic terms, the development of the Order Land represents a major opportunity to bring vitality to and enhance the vibrancy of Sutton through an uplift in the quality of the environment and accommodation (residential and commercial), and by attracting new residents to the area. The Order Scheme will also result in the creation of wider economic and social benefits as a result of the development activity and the creation of jobs,

apprenticeships and training opportunities during the construction phase of the Order Scheme. During the construction and operational phases of the Order Scheme it is anticipated that there will be increased economic activity within the High Street within Sutton Town Centre and the utilisation of other local services and businesses. This is a result of the increased number of homes on the site and population. The Council's partnership with Lovell will also provide career opportunities for young people and in particular those leaving care, whilst 50% of the jobs created through the regeneration are to be fulfilled by local labour from Sutton and neighbouring boroughs.

- 6.7 The Order Map indicates the area within which a number of land interests are sought to be compulsorily acquired. The Order Map has been carefully delineated to ensure that the parcels of the land to be acquired includes only the land that are required to facilitate the delivery of the Order Scheme.
- 6.8 The freehold interest in the majority of the Order Land is owned by the Council; however the Order Land is subject to a number of leasehold interests, tenancies and other rights. The Council is now seeking to secure ownership of all of the Order Land and to ensure that the Order Scheme can be implemented and that the comprehensive benefits referred to above are secured.
- 6.9 The Council engaged Land Assembly Services to carry out the referencing exercise for the Order Land. They have ensured that the content of the Order and Order Map are up to date, complete and accurately reflect the results of diligent enquiries.

7 WHETHER THE PURPOSE OF THE CPO BE ACHIEVED BY OTHER MEANS

- 7.1 Tier 2, paragraph 109 of the Ministry of Housing, Communities & Local Government's Guidance on the Compulsory Purchase Process (January 2025) ("**CPO Guidance**") (**CDC.2**) states that the Secretary of State must consider whether the purpose of the Order (set out in paragraph 1.3 above) could be achieved by other means.
- 7.2 The Council actively considers all of its estates and monitors planned maintenance costs of these and makes strategic decisions as to which schemes to bring forward, of course in consultation with local stakeholders, residents and members.
- 7.3 The Council chose to redevelop Elm Grove due to the poor quality of the stock and its estate environment, as well as being located within Sutton Town Centre, which offered the opportunity to increase density such that the scheme was financially viable to deliver.
- 7.4 The Council considered three options when deciding how to improve the estate:
- 7.4.1 Refurbishment: this option proposed undertaking refurbishment works to the existing homes at 1 -73 Elm Grove in order to address the most pressing condition issues and target minimum requirements in terms of current and emerging safety and accessibility standards. The type of work that could be undertaken under this Option would be:
- (a) Replacement kitchens and bathrooms;
 - (b) Accessibility improvements;
 - (c) Building and fire safety improvements;
 - (d) Energy efficiency improvements; and
 - (e) Minimal intervention to the external parts of the Estate with some improvement in street lighting.
- 7.4.2 Partial redevelopment: this option proposed demolition of the 14 houses and 2 bungalows on the Estate, to be replaced with 48 new homes and retaining the current blocks on the Estate. The retained blocks would receive refurbishment work to the same level and specification as in option 1.

- 7.4.3 Full redevelopment: this option proposed the full redevelopment of the whole Estate, including the demolition of all 73 existing homes and construction of 225 new homes all built to modern design and space standards.
- 7.5 In order to assess the merits of each option, assessment criteria were developed, around the Council priorities, resident priorities (agreed with residents during the consultation) and deliverability in relation to the planning and financial deliverability of the proposals:
- 7.5.1 Resident priorities – set out in the Community Charter, including (i) Better Homes and (ii) Improved Environment;
- 7.5.2 Council priorities – including (i) Better Homes and Places, (ii) Ambitious for Sutton corporate plan themes and (iii) Social Value and Growth; and
- 7.5.3 Technical criteria – covering (i) Financial Deliverability and (ii) Planning Deliverability.
- 7.6 In 2021 the Council consulted on these options with residents and obtained an Options Appraisal Report from Savills on the same, as set out in paragraphs 7.3-7.4 above.
- 7.7 The Council concluded that full redevelopment meets the majority of resident and Council priorities, performs reasonably / strongly in the two deliverability criteria, and is considered to provide the best opportunity to create a financially viable solution (**CDB.1** – paragraph 4.4). This is the only option that can fully address the current issues on the estate, and delivers the highest level of social, environmental and economic wellbeing benefits. The comprehensive redevelopment of the estate has the potential to significantly enhance the surrounding area through careful integration with the northern end of the town centre, in accordance with the Sutton Town Centre Masterplan.
- 7.8 Using the Council's compulsory purchase powers to achieve the full redevelopment of the estate is a decision that has been taken as a last resort, in accordance with paragraphs 2.1 and 2.8 of the CPO Guidance (**CDC.2**). The Council has made genuine and significant efforts to obtain the Order Land by agreement prior to and in parallel with making the Order. The Council has been in consultation with residents since 2017 and the majority of the Order Land is now vacant. This is set out in the evidence of Michael Hunte in relation to Council tenants and the statement of Emmanuel Pitman attached as **Appendix 2** of my evidence in relation to private landowners. However the Council could not risk being unable to deliver the Order Scheme if private negotiations broke down, and the CPO Guidance recognises that

the Council does not need to wait for negotiations to break down before starting the compulsory purchase order process.

- 7.9 It is essential that the Order Scheme is delivered in a timely fashion to both revitalise the Sutton Town Centre and in order to utilise the Council's funding, as set out below. The Council's Development Agreement with Lovell requires the Council to secure and provide vacant possession of the Order Land, which may not be possible if the Order is not confirmed.

8 DELIVERY OF THE SCHEME

- 8.1 Paragraph 109 of the CPO Guidance (**CDC.2**) requires the Council to show that there is a reasonable prospect that the Order Scheme will be delivered.
- 8.2 Paragraphs 15 and 107 of the CPO Guidance (**CDC.2**) require the Council to show there are no impediments to delivery of the Order Scheme. The evidence of Ms Barnett establishes that there are no planning impediments to delivery of the Order Scheme, and I will address financial impediments.
- 8.3 At the time this statement is submitted, the Council already owns the majority of interests in the Order Land. This is shown on the plan attached to Mr Pitman's statement (**Appendix 2** to my proof).
- 8.4 The Council has obtained funding from a number of sources to enable it to acquire the remaining interests in the land and deliver the Order Scheme in conjunction with its development partner:
- 8.4.1 A budget for obtaining vacant possession of the Order Land and the replacement of and new affordable housing through its Housing Revenue Account was approved as part of the Council's Capital Programme by the Strategy and Resources Committee on 19 February 2024 (**CDB.11.1** – paragraph 8.8 and **CDB.12** – item 38.12). The budget has been informed by Savills' analysis as the Council's commercial advisor.
- 8.4.2 Funding for providing the necessary start on site-conditions has been secured by an Affordable Housing Grant allocation of £26,625,000 from the Greater London Authority (**CDB.11** – paragraph 6.4). A condition of the Grant is that the Council begins works on-site by May 2025, which is authorised as 'Phase 0' works under the Planning Permission and which the Council is currently on track to achieve. Ms Barnett's evidence sets out more detail on these works.
- 8.4.3 Additionally, Lovell Partnerships Limited ("**Lovell**") as developer partner is responsible for financing the delivery of the private housing in accordance with the terms of the Development Agreement referred to below.
- 8.5 The Council has tested the financial viability of the Order Scheme throughout its development of the scheme, and considers that sufficient funding is in place to deliver it. The Council, with its commercial advisors and Lovell, will continue to keep viability under review. However I am satisfied that there are no financial impediments to the delivery of the Order Scheme.

- 8.6 The Order Scheme aligns with strategic ambitions for the Sutton town centre and enables the provision of additional affordable housing in Sutton. Given the commitment from the Council to the Order Scheme and the funding in place to deliver it, I consider there is a reasonable prospect that the Order Scheme will be delivered.

9 DEVELOPMENT PARTNERSHIP

- 9.1 At the time the business case of the Order Scheme was approved, the Housing, Economy and Business Committee also resolved on 24 January 2023 to select a development partner (**CDB.8**). The Council chose to take a Development Agreement approach as it was the most cost effective model for the Council, and provides a greater level of balance between risk, reward, best value and control, with the structure of the agreement assisting in transferring an appropriate level of delivery and construction risks to the partner, who is better placed to manage and mitigate these risks (**CDB.7** –paragraphs 4.7 and 6.2).
- 9.2 The Council appointed its development partner through a two-stage selection process involving:
- 9.2.1 Inviting interested parties to submit a Selection Questionnaire that tested bidders' capability and capacity to undertake the development; and
 - 9.2.2 Issuing a detailed tender pack and holding three rounds of Competitive Dialogue with each of the three shortlisted parties. The Council subsequently evaluated the tenders on a range of criteria.
- 9.3 The Council took advice from Bevan Brittan LLP on the legal part of the tender and from Philip Pank Partnership on the build cost components of the three bid responses received. Philip Pank Partnership LLP assessed the bid responses on a qualitative basis and financial basis and advised that the build costs were within the parameters they would expect to see in this sort of development, and allow for affordable housing to be delivered to the Council to an acceptable level of specification.
- 9.4 The outcome of the selection process was presented to the Council's Housing, Economy and Business Committee. On 17 July 2024 the Council appointed Lovell as the preferred bidder and resolved to enter into a contract with the preferred bidder through a Development Agreement (**CDB.10**). Lovell scored highly against the criteria, including performing very strongly against the social value commitments required by the Council.
- 9.5 On 23 December 2024 the Council entered a Development Agreement with Lovell, with advice from Bevan Brittan. The Development Agreement provides for Lovell to deliver the Order Scheme on behalf of the Council, and there are financial incentives for Lovell to then deliver the Order Scheme in a timely fashion. Lovell is intending to begin demolition on site in May 2025.

- 9.6 I attach as Appendix 3 a letter from Lovell's Regional Managing Director which confirms Lovell's commitment to and support for the Order Scheme.

10 SECTION 73 SCHEME

- 10.1 Lovell has been appointed to deliver the Order Scheme under the Planning Permission. However it is currently in pre-application discussions with the local planning authority to amend the conditions of the Planning Permission under section 73 of the Town and Country Planning Act 1990 ("Section 73 Application").
- 10.2 It is entirely usual once a development partner has been appointed for them to amend a Planning Permission so that the development is more consistent with the development partner's standard specification.
- 10.3 Under the Development Agreement, Lovell is required to submit a reserved matters application and the Section 73 Application in consultation with the Council by June 2025. This is also set out in the letter from Lovell at Appendix 3, which states that the local planning authority has been supportive of the applications. The target is that the reserved matters application and Section 73 Application will be determined by December 2025 / January 2026.
- 10.4 Appendix 8 to Ms Barnett's evidence includes a summary of the Section 73 Application compared to the Planning Permission. This demonstrates that the scheme under the Section 73 Application delivers similar wellbeing benefits as the scheme under the Planning Permission

11 JUSTIFICATION FOR THE USE OF CPO POWERS AND FOR THE ORDER

- 11.1 The Council is required under the CPO Guidance (**CDC.2**) to ensure the purpose of the Order justifies interfering with the human rights of those affected, and carry out the Order process in accordance with its equalities duties.
- 11.2 It is the Council's view that there is a compelling case in the public interest for the Order and that the benefits of the Order Scheme on social, environmental and economic wellbeing outweigh the necessary interference with the private rights and interests in the Order Land. In conjunction with extensive consultation with residents and occupiers of the Order Land, the Council has set and followed procedures to mitigate negative impacts on those with protected characteristics. I set out more detail below on the justification of the Order in this context.

The Council's Equalities Duties

- 11.3 Paragraph 6 of the CPO Guidance highlights that acquiring authorities must comply with the Public Sector Equality Duty as set out in section 149 of the Equality Act 2010. This requires the authority to have due regard to the need to:
- 11.3.1 eliminate unlawful discrimination, harassment, victimisation;
 - 11.3.2 advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - 11.3.3 foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 11.4 The Council carried out an Equalities Impact Assessment ("**EQIA**") in September 2021 on the proposals to improve the Estate and the consultation that took place in the run up to the Resident's Ballot. The Council has kept the EQIA under review and updated it in March 2022, January 2023 and most recently in December 2023 (**CDA.5**) to reflect the development of the Order Scheme leading up to the submission of the Planning Application. The updated EQIA is attached to the report to the Strategy and Resources Committee on the authority to Make a Compulsory Purchase Order to facilitate the Regeneration of Elm Grove (19 February 2024, **CDB.11**).
- 11.5 The EQIA summarises the impacts of the Order Scheme on those with protected characteristics. It concludes that the Order Scheme has a mostly positive impact on those with each of the protected characteristics it assesses.

- 11.6 Part 9 of the EQIA also sets an action plan to mitigate the negative impacts of the Order Scheme going forward. These include continuing to engage with residents on their housing needs and the Order Scheme and to implement the Council's commitments in the Landlord Offer. The Council is continuing to undertake the actions set out in this action plan, and more detail on the Council's support to residents is set out in the statements of Mr Hunte and Mr Pitman.
- 11.7 The Council has reviewed the EQIA in March 2025. Following this review, the Council is confident that it is taking the necessary actions to mitigate any adverse impact of the Order Scheme on protected characteristics and no further updates are needed to the EQIA at this time. The Council will keep the EQIA under review.
- 11.8 Lovell has committed under the Development Agreement to supporting the Council's Equality Diversity and Inclusion Action Plan as it relates to working together with Londoners.

Human rights

- 11.9 Section 6 of the Human Rights 1998 Act prohibits public authorities from acting in a way that is incompatible with the European Convention on Human Rights. Article 8 of the Convention provides that everyone has the right to respect for their home and "there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interest of ... the economic well-being of the country...". Article 1 of the First Protocol provides that every natural or legal person is entitled to the peaceful enjoyment of his possessions and that no one shall be deprived of his possessions except in the public interest.
- 11.10 Paragraphs 2.10 and 12.4 of the CPO Guidance (**CDC.2**) requires the Council to be sure that the purposes for which the Order is made justify interfering with the human rights of those with an interest in the land affected.
- 11.11 The Council has considered alternatives, as set out above, and the purpose of the Order Scheme could not be achieved in a timely fashion (or potentially at all) by means other than by the compulsory purchase of the Order Land, which will interfere with rights held by owners and occupiers of the Order Land.
- 11.12 The Council considers that transformational change from the Order Scheme, as well as the direct benefits of the redevelopment, will contribute to significantly improving the social and economic well-being of the area and its local community. The compulsory purchase process provides landowners an opportunity to object to the proposals and ensures are compensated

appropriately in the event that the Order is made and confirmed. However, none of the owners of interests in the Order Land, nor any occupiers, have objected to the Order.

11.13 The Council has made great effort to acquire the Order Land by private agreement, as set out in the evidence of Mr Hunte and Mr Pitman. Subject to the Order being confirmed, all those whose interests are compulsorily acquired will be entitled to fair compensation under the statutory Compensation Code. Compensation will be determined independently by the Upper Tribunal (Land Chamber) if it cannot be agreed.

11.14 I consider that use of compulsory purchase powers in order to bring about this major development is both necessary and proportionate to the interference with human rights, particularly in light of the statutory compensation available.

Justification for the Order

11.15 The Council is committed to delivering transformational change in Sutton Town Centre, and the regeneration of the Estate is an important step. The Council has consulted with residents and stakeholders throughout the development of the Order Scheme and has followed a transparent and robust decision-making process. The Council's Strategy and Resources Committee resolved to make the Order on 19 February 2024.

11.16 There is a Planning Permission in place which enables delivery of the Order Scheme. The evidence of Ms Barnett makes it clear that the purpose for which the land is being acquired fits with the development plan for the area, and there are no planning impediments to the delivery of the Order Scheme.

11.17 The purpose of the Order could not be achieved by other means. The Order Land is in need of regeneration and full redevelopment of the Order Scheme is the best way to achieve the purpose of the Order and meet the criteria of residents.

11.18 The Council has been engaged in meaningful negotiations with Council tenants and private landowners, as set out in the statements of Mr Hunte and Mr Pitman. The Council has acquired nearly all of the interests in the Order Land at the time of submitting this evidence, but the Council is not required to wait until negotiations broke down before making the Order and the Council's funding requires actions sooner.

11.19 The Order Scheme is financially viable and deliverable in conjunction with the Council's development partner, Lovell. The Council is committed to the regeneration of the Estate and there is a more than reasonable prospect that the Order Scheme will be delivered.

- 11.20 Finally, the Order will facilitate the comprehensive development of the Order Land in a manner which will positively contribute to the improvement of the economic, social and environmental well-being of the locality and the wider Borough.
- 11.21 The use of compulsory purchase powers is a last resort, however the Council considers it has justified the use of these powers under section 226 and in accordance with the CPO Guidance (paragraphs 109) (**CDC.2**) in light of the reasons set out above.

12 RESPONSE TO OBJECTIONS

- 12.1 The Secretary of State received five objections to the making of the Order, which are summarised in paragraph 11.2 of the Statement of Case and two of which have now been withdrawn. None of the objections were lodged by a person with an interest in the Order Land.
- 12.2 Kim's Commercial Real Estate Limited (**CDF.1**) lodged an objection on a number of grounds. Bevan Brittan contacted the objector's solicitor on behalf of the Council to address the points raised in the objection. The objection was withdrawn on 11 October 2024 as the objector was satisfied with the Council's response to the objection and progress with the Planning Application, as set out in **CDF.2**.
- 12.3 Southern Gas Networks Plc lodged an objection (**CDF.3**) on the basis that the Order Scheme may impact the low pressure gas mains within and in the vicinity of the Order Land. The Council completed an Asset Protection Agreement with Southern Gas Networks Plc on 8 October 2024 which resolved the matters raised in this objection. The objection was withdrawn on 9 October 2024 (**CDF.4**).
- 12.4 There are three remaining objections, lodged by Chun Sung (**CDF.5**), Arif Hassan (**CDF.6**) and Patricia Alin (**CDF.7**). None of these objectors have an interest in the Order Land. The scope of these objections relates to engagement (addressed above, and in more detail by Mr Pittman and Mr Hunte) and the Order Scheme's impact on rights to light.
- 12.5 The Council wrote letters to each of these objectors in April 2024 to update them on the planning application process, and explain that their properties were included in Table 2 of the Order as a precaution however it would not be possible to confirm whether their properties would be impacted by the development under the Order Scheme until the detailed design has been finalised. The objectors were informed of the statutory compensation regime that could be pursued in the event that the final design of the Order Scheme would result in an infringement of their rights to light. These letters are attached as **Appendix 4**.
- 12.6 It is still the case that the Council cannot confirm the extent of the potential impact of the Order Scheme on rights of light that may benefit adjoining landowners/occupiers.
- 12.7 If any of the three remaining objections do benefit from a right to light that is infringed by the final design of the Order Scheme, the statutory compensation regime is in place to deal with these rights and their objections can be appropriately dealt with by the Upper Tribunal. The Council's view therefore is that these objections should be disregarded. It should be mentioned that the revised scheme being pursued in the Section 73 Application does not

include a tall marker building on the northern corner of the Order Land adjacent to Marshalls Court (as the height here has been reduced from 13 to 6 stories) and so there is a lower risk of infringing any rights of light for the occupiers of the Marshalls Court building.

13 CONCLUSION

- 13.1 My evidence and that of the other witnesses demonstrates that the Council has met the tests in the CPO Guidance and that the use of the Council's compulsory order powers is of last resort. The Council has supported existing tenants within the Estate under the Landlord Offer and the Council is continuing to negotiate with landowners. Any remaining landowners will be compensated fairly under the Compensation Code if the Order is confirmed.
- 13.2 The Council is confident that there are no financial, legal or physical impediments to the implementation of the Order Scheme except the need to obtain vacant possession of the Order Land.
- 13.3 The Council has the benefit of GLA funding that is time limited to deliver the regeneration of the Estate, and without the use of compulsory purchase powers the Order Scheme is likely to be delayed or prevented altogether. The Order Scheme presents an excellent opportunity for the regeneration of the Estate and to revitalise Sutton Town Centre, and confirming the Order will facilitate this.

14 DECLARATION OF TRUTH

- 14.1 I confirm that insofar as the facts stated in my evidence are within my own knowledge I have made clear which they are, and I believe them to be true and that the opinions expressed represent my true and complete professional opinion.